

REMARKS

In view of the foregoing claim amendments, and arguments that follow, applicants submit that all of the pending claims are in condition for allowance. Reconsideration and favorable action is requested.

Rejection of Claims 1, 2, 5, 21, 22, 56-62 Under 35 U.S.C. § 102(a) As Being Anticipated by Raad et al. (U.S. Patent No. 6,165,484, Hereafter the '484 Patent)

The claims have been amended to recite the use of an antibacterial composition to inhibit proliferation of a bacterial population of a skin injury or surface lesion of a human or animal patient. In contrast, the '484 patent is directed to treatment of systemic fungal infections using one or more antifungal agents:

The present invention provides an effective method of treating a systemic fungal infection comprising the steps of obtaining a therapeutically effective amount of a pharmaceutical composition comprising at least one chelator, at least one antifungal agent and a pharmaceutical excipient, diluent or adjuvant, and administering said pharmaceutical composition to a patient having a fungal infection. ('484 patent, Col. 2, lines 5-11).

Consequently, applicants submit that the '484 patent does not anticipate Claims 1, 2, 5, 21, 22, and 56-62 of the present application.

Rejection of Claims 6-9, 12-15, and 18-20 Under 35 U.S.C. § 103(a) As Being Unpatentable Over the Combined Disclosures of Raad et al. ((U.S. Patent No. 6,165,484 (Hereafter the '484 patent) and U.S. Patent No. 5,688,516 (Hereafter the '516 patent)); and Kruse et al. (U.S. Patent No. 5,646,151 (Hereafter the '151 patent)))

It is well established that if a proposed modification would render a prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *See, In re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed. Cir. 1984).

The '484 patent is directed to the treatment of systemic fungal infections. In contrast, the claims of the present application are directed to the treatment of bacterial infections of a skin

injury or surface lesion of a human or animal patient. Applicants submit that the '484 patent neither discloses nor suggests methods for inhibiting proliferation of a bacterial population of a skin injury or surface lesion. Applicants submit that modification of the teachings of the '484 patent to replace antifungal agents with antibacterial agents (such as the antibacterial agents disclosed in the '516 and '151 patents) in amounts effective to treat a bacterial infection, would likely render the invention disclosed in the '484 patent inoperative for its intended purpose, which is to treat systemic fungal infections.

Consequently, applicants submit that the subject matter of Claims 6-9, 12-15, and 18-20 is not obvious in view of the combined teachings of the '484 patent, the '516 patent, and the '151 patent.

CONCLUSION

In view of the foregoing claim amendments and arguments, applicants respectfully submit that all the pending claims are in condition for allowance. Reconsideration and favorable action are requested.

Respectfully submitted,

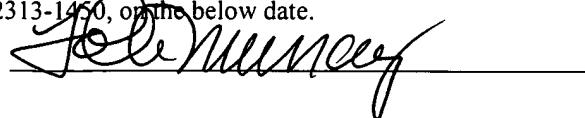
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Date: April 6, 2005



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